Supreme Court, U.S.
FILED
OCT 13 1971
E. ROBERT SEAVER, CLERK

IN THE

Supreme Court of the United States

October Term, 1971

No. 71-374

COMMONWEALTH OF PENNSYLVANIA,
Petitioner,

vs.

THOMAS TAYLOR
Respondent.

ANSWER TO WRIT OF CERTIORARI TO THE SUPREME COURT OF PENNSYLVANIA

OSTROFF & LAWLER
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PRESS OF ALLEN, LANE & SCOTT, PHILADELPHIA

ARGUMENT

I. The Petition should be denied because it was filed late.

The opinion of the Supreme Court of Pennsylvania from which the Commonwealth appeals was decided on May 13, 1971. Thomas Taylor never filed any Petition for Reconsideration. Petitions for Reconsideration filed by other defendants did not raise the issue presented in this petition.

This Court's Rule 22 requires the filing of a Petition for Certiorari within 90 days. This Petition was 30 days too late.

II. The Petition should be denied because the Supreme Court of Pennsylvania was interpreting the Pennsylvania Constitution.

On page 39a of the Petition for Certiorari the opinion of Justice Roberts is printed. In that opinion, the following sentence appeared:

> "This complex appeal involves numerous issues, all of which center on two problems: (1) whether a criminal proceeding can lawfully be commenced by an investigating grand jury's presentment to an indicting grand jury without affording defendant an opportunity for a preliminary hearing; and (2) whether, or to what degree, a subpoenaed witness and potential defendant before an investigating grand jury is entitled to the assistance of counsel to aid him in asserting his right against self incrimination guaranteed both by the Fifth Amendment, applied to the states through the Fourteenth Amendment, *and Article I, Section 9 of the Pennsylvania Constitution.*"

Article I, Section 9 of the Pennsylvania Constitution provides as follows:

"In all criminal prosecutions the accused hath a right to be heard by himself and his counsel, to demand the nature and cause of the accusation against him, to meet the witnesses face to face, to have compulsory process for obtaining witness in his favor, and, in prosecuting by indictment or information, a speedy public trial by an impartial jury of the vicinage; he cannot be compelled to give evidence against himself, nor can he be deprived of his life, liberty, or property, unless by the judgment of his peers or the law of the land."

Since the indictment against Thomas Taylor has been quashed on state grounds, it would be a useless act of this Court to review the quashing under Federal constitutional grounds.

Respectfully submitted,

OSTROFF & LAWLER

By: ISIDOR OSTROFF